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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,058	02/06/2004	James I. Mahaney	002328.0746	4821
5073	7590	11/15/2010		
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			EXAMINER NORMAN, SAMICA L	
			ART UNIT 3693	PAPER NUMBER
			NOTIFICATION DATE 11/15/2010	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/774,058	<b>Applicant(s)</b> MAHANEY ET AL.	
	<b>Examiner</b> SAMICA L. NORMAN	<b>Art Unit</b> 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 15-18, 29-35, 48 and 49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

Claims 15-18, 29-35, and 48-50 are pending.

Claims 1-14, 19-28 and 36-47 are cancelled.

The Claim Objections are withdrawn due to applicant's current amendment.

The 35 U.S.C. 112, second paragraph Rejection is withdrawn due to applicant's current amendment.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fay et al., U.S. PG-Pub No. 2002/0188540 (reference B on the attached PTO-892) in view of Orth, "Retirement Planning for Married Couples: Distribution Differences" (reference X on the attached PTO-892).

2. As per claim 50, Fay teaches a non-transitory tangible computer-readable storage medium encoded with computer-readable instructions for calculating income streams for a husband and a wife that, when executed by one or more computer systems, performs steps comprising: receiving information about the husband, including the husband's age or birthdate (see paragraph 0038, lines 8-14); receiving information about the wife, including the wife's age or birthdate (see paragraph 0038, lines 8-14); calculating a projected retirement income for the husband and the wife in a bridge

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scenario, the projected retirement income in the bridge scenario including an estimate of yearly inflation-adjusted after-tax income (see paragraph 0040, lines 1-11) from: a bridge annuity for the husband beginning at an expected retirement age for the husband and ending at a deferred age for the husband (see paragraph 0038, lines 8-14); calculating a projected retirement income for the husband and the wife using an alternative funding approach (see paragraph 0038, lines 14-21); comparing the calculated projected retirement income for the husband and the wife in the bridge scenario to the projected retirement income for the husband and the wife using the alternative funding approach (see paragraph 0043, lines 1-10).

3. Fay et al. does not explicitly teach deferred Social Security for the husband beginning at the deferred Social Security age for the husband; a bridge annuity for the wife beginning at an expected retirement age for the wife and ending at a deferred Social Security age for the wife; and deferred Social Security for the wife beginning at the deferred Social Security age for the wife. Orth teaches deferred Social Security for the husband beginning at the deferred Social Security age for the husband; a bridge annuity for the wife beginning at an expected retirement age for the wife and ending at a deferred Social Security age for the wife; and deferred Social Security for the wife beginning at the deferred Social Security age for the wife (see page 3, paragraph 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the computer readable storage medium of Fay et al. One of ordinary skill in the art would have motivated to incorporate this feature for the purpose of postponing tax being paid on Social Security payments by using other retirement income first (see page 4, paragraph 1 of Orth).

***Response to Arguments***

2. Applicant's arguments filed August 12, 2010 have been fully considered but they are not persuasive.

4. Applicant argues Fay fails to disclose that the retirement annuity ends “at a deferred Social Security age for the husband” much less another annuity for the wife “ending at a deferred Social Security age for the wife.” Fay teaches that the annuity payout begins at retirement age and continues to payout until a defined period which is defined by the user (paragraphs 0027 and 0036). Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time the invention was made, based upon the teaching(s) of Fay, that user can select the defined ending age as that of a deferred Social Security age.

5. Applicant argues the cited references fail to disclose “calculating a projected retirement income for the husband and wife in a bridge scenario, the projected retirement income in the bridge scenario including an estimate of yearly inflation-adjusted after-tax income from” the recited features. Fay teaches calculating a guaranteed retirement income amount to be paid out a certain date or age (paragraph 0016). Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time the invention was made, based upon the teaching(s) of Fay, that the guaranteed amount would already reflect any taxes.

6. Applicant argues the proposed Fay-Orth combination also fails to disclose “calculating a projected retirement income for the husband and the wife using an alternative funding approach” or “comparing the calculated projected retirement income for the husband and the wife using the alternative funding approach.” The Examiner is unable to further address applicant's arguments

in these regards. Applicant merely made a broad assertion but failed to indicate any way in which the prior office action failed to establish these argued elements.

***Conclusion***

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

4. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAMICA L. NORMAN whose telephone number is (571)270-1371. The examiner can normally be reached on Mon-Thur 6:30a-5p, w/ Fri off.

6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6781. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

sln

/Jason M Borlinghaus/  
Primary Examiner, Art Unit 3693  
November 7, 2010